

(PCT Article 36 and Rule 70)

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2004/002221

Box No. I

Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-11 as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* 1, 3-9 received by this Authority on 29.03.2005 with letter of 18.03.2005
- nos.\* 2, 10 received by this Authority on 13.01.2006 with letter of 11.01.2006
- ☒ the drawings:
- sheets 1/4-4/4 as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	2, 5, 8, 10	YES
	Claims	1, 3, 4, 6, 7, 9	NO
Inventive step (IS)	Claims	2, 5, 8, 10	YES
	Claims	1, 3, 4, 6, 7, 9	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
<p>1. <b>Independent claims 1 and 9</b></p> <p>Document D1 (US2002/132701 A1) discloses a method and a device for operating a drive unit (drive motor), in particular of a vehicle, in which a target value (fig. 4: <b>Tot</b> - target output torque, which is determined from the characteristic field 151a) is set for at least one output variable (torque) of the drive unit, and in addition, in at least one operating state of the drive unit (when idling), a target value for an operating variable of the drive unit (idling speed target value Target Ne) is set, and in that operating state (when idling) the at least one output variable of the drive unit, irrespective of its target value (when idling the variable Tit is not determined as a function of Tot, which is determined from the characteristic field 151a, i.e. the output variable of the switch 151c is zero - there is no difference between setting a value at zero and not setting a value), is set in order to bring an actual value for the operating variable closer to the target value for the operating variable</p>			

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>(idling controller 154).</p> <p>The present application thus fails to meet the requirements of PCT Article 33(1) because the subject matter of claims 1 and 9 lacks novelty (PCT Article 33(2)).</p> <p><b>2. Independent claims 2 and 10</b></p> <p>The subject matter of claims 2 and 10 appears to meet the PCT requirements in respect of novelty and inventive step.</p> <p>None of the documents cited in the search report discloses a method (or device) for operating a drive unit such as specified in claim 2, i.e. using a gear shift procedure, or contains any indication that would lead to the subject matter of claim 2.</p> <p><b>3. Dependent claims</b></p> <p><u>Claims 3, 4, 6 and 7</u> do not contain any features which, in combination with the features of claim 1, meet the PCT requirements for novelty. D1 chooses a torque as output variable (claim 3) and an engine speed as operating variable (claim 4). The target torque value of an internal combustion engine is set in the sense of a speed controller (claim 6) and the ignition angle, the fuel injection and the air supply are used as manipulated variables for controlling the torque</p>

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(claim 7) .

4. **Further observation**

The use of the parameters "output variable" and "operating variable" in the claims appears vague and unclear and appears not to be supported by the description (PCT Article 6) .

It appears that the claims are not concise (PCT Article 6) .